

REMARKS

Claim 1 has been amended to limit the modified starch to soluble starch.

Claims 1-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over van Lengerich (US 6,723,358) in view of Blue, et al. (US 5,935,826).

Van Lengerich teaches encapsulation of components into edible products. Van Lengerich uses a starch which is substantially ungelatinized (insoluble) [see col 2, last line]. It is a key requirement that the starch is not gelatinized [see col 3, lines 42-46] and therefore not soluble in contrast to the present invention. As using an ungelatinized starch is a key requirement of van Lengerich, one skilled in the art would not substitute it with the soluble starch of Blue to reach the present composition in which the starch is soluble.

Further, the function of proteins in van Lengerich is clearly to enhance the water binding or viscosifying characteristics of the formula, thereby preventing or delaying the release of the encapsulant from the matrix [see col 8, line 24]. In contrast, the proteins of the present invention function as part of the encapsulating medium.

The Examiner was unpersuaded because van Lengerich teaches that "up to 30% of the starch in the matrix may be gelatinized (col. 7, l. 27), and the composition claims are open to further additions." Claim 1 has been amended such that the modified starch consists of a soluble starch derivative, such that the modified starch can no longer include insoluble starches.

In view of the foregoing, Applicant submits the Application is now in condition for allowance and respectfully requests early notice to that effect.

Respectfully submitted,



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